

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:18-CV-00440-MOC-DSC**

WESLEY E. DAYS and)
PASHEENA DAYS,)
)
Plaintiffs,)
)
vs.)
)
BAYVIEW LOAN SERVICING, LLC,)
et. al.,)
)
Defendants.)
_____)

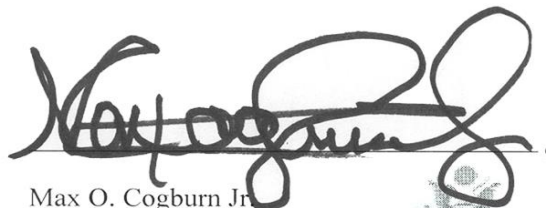
THIS MATTER is before the Court on Motions to Dismiss Plaintiffs’ Third Amended Complaint for Failure to State a Claim, brought under Federal Rule of Civil Procedure 12(b)(6), and filed by the Bayview Defendants (Doc. No. 99) and the SN Defendants (Doc. No. 106). In support, Defendants rely on supporting documents or arguments outside the complaint. (See, e.g., Doc. No. 100 at 7-8 (arguing “Plaintiffs did not continue to make loan payments” and “refused to execute any of the written loan modifications”); Doc. No. 107 at 7-8 (asserting “Defendants made no false representations after Bayview Defendants transferred the Loan to the SN Defendants, and simply serviced the Loan in accordance with normal servicing practices.”)). But on Rule 12(b)(6) dismissal motions, the Court generally considers only the allegations on “the face of the complaint.” Waugh Chapel S., LLC v. United Food & Commercial Workers Union Local 27, 728 F.3d 354, 360 (4th Cir. 2013). In accordance with its obligation to liberally construe pro se complaints, the Court now enters the following Order.

The Court strongly suggests that the Plaintiffs avail themselves of the Pro Se assistance program. This program provides free attorney assistance with a settlement conference. The

attorneys are experienced and have volunteered to assist in this program. You are not required to settle after this conference but will at least have an ally in trying to come to an agreement. Just contact the clerk's office and I will appoint someone to help.

IT IS, THEREFORE, ORDERED that the Motions to Dismiss Plaintiffs' Third Amended Complaint for Failure to State a Claim, filed by the Bayview Defendants (Doc. No. 99) and the SN Defendants (Doc. No. 106), are denied pending further development of the record, and the Court will issue a ruling after discovery and the parties' filing of summary judgment motions.

Signed: December 28, 2020



Max O. Cogburn Jr.
United States District Judge